

CHAPTER NO. 446

SENATE BILL NO. 1324

By Haynes, Harper, Graves, Williams

Substituted for: House Bill No. 749

By Garrett, Davidson, McDonald, Langster, Briley, Pruitt, Sherry Jones, Fitzhugh

AN ACT To amend Tennessee Code Annotated, Title 8, Chapter 36, relative to line of duty death benefits payable by the Tennessee Consolidated Retirement System.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-36-108(b)(1)(C), is amended by deleting the same in its entirety and by substituting instead the following:

(C) If a surviving minor child or children are named, then this annuity shall be divided equally among them. Each child shall receive such child's share until reaching majority status or death, whichever occurs first, at which time this annuity shall be redistributed equally among the remaining minor children. On the date the last surviving child reaches majority status or death, then this annuity shall be paid to the member's surviving spouse, if any, until the surviving spouse dies. Notwithstanding the foregoing or any other law to the contrary, if no surviving spouse exists on the date of the member's death and if the projected payments to be made to all the minor children pursuant to this subdivision do not exceed a minimum total value of fifty thousand dollars (\$50,000), then the projected excess shall be paid to the member's estate for the sole benefit of all the member's surviving children, regardless of age, provided such excess exceeds the amount a bank may pay under § 45-2-708(a). Any such payment shall be free from the claims of any and all creditors.

SECTION 2. Tennessee Code Annotated, Section 8-36-108(b), is amended by deleting subdivisions (4) and (5) and by substituting instead the following:

(4) If the member has designated an individual or individuals other than, or in addition to, the member's surviving spouse or surviving child or children, such individuals may disclaim the death benefit otherwise payable. To be effective, the individuals must not have received any of the benefits, and the disclaimer must be in writing and filed with the division of retirement. Such writing shall contain the information required in § 8-36-125. If a disclaimer is made under the provisions of this subsection, the state annuity described in Subsection (b)(1) of this section shall be paid to the member's surviving spouse and surviving child or children in accordance with Subsection (b)(1)(B). If no surviving spouse exists, then the annuity shall be paid to the member's surviving child or children in accordance with Subsection (b)(1)(C).

(5)(A) If the member has designated an individual or individuals other than, or in addition to, the member's surviving spouse or surviving child or children and such individuals do not disclaim the death benefit under Subsection (b)(4), a state annuity shall nevertheless be paid the member's surviving spouse and surviving child or children. The annuity shall be equal to the amount which would have otherwise been payable under Subsection (b)(1) had the member designated the member's surviving spouse or surviving minor child or children as beneficiary,

minus (i) the actuarial value of the benefits payable to the non-disclaiming beneficiaries, or (ii) in the case of a lump sum payment, the amount of the lump payment made to the non-disclaiming beneficiaries. Notwithstanding any provision of this subdivision to the contrary, the annuity shall have a guaranteed minimum total value of fifty thousand dollars (\$50,000), minus the (i) actuarial value of the benefits payable to the non-disclaiming beneficiaries, or (ii) in the case of a lump sum payment, the amount of the lump sum payment made to the non-disclaiming beneficiaries. The guaranteed minimum value shall be paid in monthly installments calculated on a sixty (60) month basis and divided in the manner prescribed in subdivision (B) below.

(B) The annuity provided in this subdivision (b)(5) shall be paid to the member's surviving spouse until such spouse's death. Upon the surviving spouse's death, this annuity shall be divided equally among the member's surviving minor children. Each child shall receive such child's share until reaching majority status or death, whichever occurs first, at which time this annuity shall be redistributed equally among the remaining minor children. If the guaranteed minimum total value has not been paid out under this subdivision (B) in the form of an annuity on the date the last surviving child reaches majority status or death, the remaining amount shall be divided equally among all the member's surviving children, regardless of age. If no surviving children exist, then the remaining amount shall be paid to the estate of the last to survive of the spouse and the member's children in accordance with § 8-36-120.

(C) If no surviving spouse exists on the member's death, then the annuity provided in this subdivision (b)(5) shall be divided equally among the member's surviving minor children. Each child shall receive such child's share until reaching majority status or death, whichever occurs first, at which time this annuity shall be redistributed equally among the remaining minor children. Notwithstanding the foregoing or any other law to the contrary, if no surviving spouse exists on the date of the member's death and if the projected payments to be made to all the minor children pursuant to this subdivision do not exceed a minimum total value of fifty thousand dollars (\$50,000), then the projected excess shall be paid to the member's estate for the sole benefit of all the member's surviving children, regardless of age, provided such excess exceeds the amount a bank may pay under § 45-2-708(a). Any such payment shall be free from the claims of any and all creditors.

(6) Notwithstanding any provision of the law to the contrary, the aggregate total death benefit payable under Chapters 34 – 37 of this title on account of a member who dies in the line of duty shall have a value of not less than fifty thousand dollars (\$50,000). Except as otherwise provided in this subsection, if the death benefit is payable to a single beneficiary, the guaranteed minimum value shall be paid in monthly installments calculated on a sixty (60) month basis. In the event the beneficiary dies before receiving all of the guaranteed minimum value, a lump sum payment equal to the actuarial equivalent of the monthly benefit due over the remaining months in the sixty (60) month period shall be paid to the beneficiary's estate in accordance with § 8-36-120. If the benefit is payable to multiple beneficiaries, other than to the member's surviving minor children, or to a non-human being such as firm, organization, partnership, association, corporation, estate or trust, the guaranteed minimum value shall be paid in a lump sum. Amounts payable to multiple beneficiaries under this

Subsection (b)(6), shall be distributed in equal proportions among the surviving beneficiaries.

(7) No benefit payable to a minor child hereunder shall be made until the guardian of such child has provided the retirement division with documentation establishing such guardianship. In the case of a parent, the documentation may consist of the child's birth certificate or record of adoption, whichever is applicable, and a certified statement from the parent that the parent is the legal guardian of the minor child. The retirement division shall be entitled to rely on such documentation and shall not be liable for damages or other payments by reason of any payment made in reliance thereon.

(8) This Subsection (b) shall not apply to individuals who are members of the retirement system by virtue of their employment with any employer participating in the retirement system pursuant to Chapter 35 of this title unless the governing body of any such employer passes a resolution authorizing and accepting the associated liability and costs to provide such benefits.

SECTION 3. The provisions of this act shall be subject to the funding being provided in the general appropriations act.


SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: July 11, 2001


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 18th day of July 2001


DON SUNDQUIST, GOVERNOR